

EXHIBIT A

CONSTRUCTION CONTRACT STANDARD CONDITIONS

ARTICLE 1. DEFINITIONS

The following terms shall have the meaning hereafter ascribed to them unless the context clearly requires a contrary meaning:

“Board” means the State of California Board of Corrections.

“Construction Bidding” means receiving and accepting a bid to complete the project.

“Construction Documents” means architectural plans and specifications that are 100 percent complete and generally include: completed specifications, with bid proposal documents; completed construction documents; and, special interest items (any corrections, modifications or additions made to the documents).

“Construction” means the building of the Board approved project by the successful bidder/contractor. Construction generally begins with site preparation/excavation and ends with the completion of the project and acceptance by the County.

“Design Development” means architectural plans and specifications that are 50 percent complete and generally include: outline specifications (detention hardware, equipment, and furnishings); floor plans (to scale with dimensions, room designations, references, wall types, and ratings); building sections (heights and dimensions); interior elevations; and, preliminary structural, mechanical, and electrical drawings.

“Eligible Project Cost” means, except as otherwise provided, reasonable and necessary project costs actually incurred in construction of the project as specified in Exhibit B attached to and made a part of this agreement, and which are otherwise eligible for grant funding pursuant to this contract and Federal and state laws, rules, regulations, guidelines, and policies.

“Environmental Impact Report (EIR)” means a report as defined in the California Environmental Quality Act (CEQA).

“Financial Plan” means arrangements by the grantee to finance its portion of the project cost, including reserves for cash flow during the construction period.

“Fixed Equipment and Fixed Furnishings” means those items that are built-in or otherwise permanently affixed.

“Grantee” means the contractor identified on the Standard Agreement.

“Cash (Hard) Match” means cash spent by the grantee for eligible expenditures as specified in Exhibit B attached to and made a part of this agreement, and which are

otherwise eligible for match expenditure pursuant to this contract and Federal and State laws, rules, regulations, guidelines, and policies.

"In-Kind (Soft) Match means the value of personnel, land, or services dedicated to the project by the grantee for eligible expenditures as specified in Exhibit B attached to and made a part of this agreement, and which are otherwise eligible for match expenditure pursuant to this contract and State laws, rules, regulations, guidelines, and policies.

"Ineligible Project Cost" means, except as otherwise provided, all costs which are not eligible for grant funding pursuant to this contract and Federal and state laws, rules, regulations, guidelines, and policies even though incurred by the Grantee, including those that are determined by the Board to be unreasonable or unnecessary costs.

"Occupancy" means the placement and continued housing of offenders in a detention facility.

"Operating Cost Statement" means an assessment of costs (staff, utilities, maintenance, etc.) to operate the portion of the facility subject to the project for its life cycle.

"Project" means the construction effort as specified in this contract and in Exhibit B attached to and made a part of this agreement.

"Rated Beds" means the number of beds dedicated to housing adult/juvenile offenders for which a facility's single-and double-occupancy cells/rooms or dormitories were planned and designed in conformity to the standards and requirements contained in Titles 15 and 24, California Code of Regulations (minimum standards for adult and juvenile detention facilities). Special use cells/rooms used for medical, disciplinary, holding, and safety purposes are not considered in the rated bed capacity of a facility.

"Schematic Design" means architectural plans and specifications that are 30 percent complete and generally include: a site plan; floor plan; exterior elevations and cross sections' type of construction; and, actual gross floor area.

"Staffing Plan" means a statement of how the facility will be staffed 7 days a week, 24 hours a day, in compliance with Title 15, California Code of Regulations.

"Supplant" means the use of grant funds and/or cash (hard) matching funds to replace funds otherwise dedicated or appropriated for construction activities.

ARTICLE 2. PROJECT COSTS

A. Project costs or items eligible for grant funding are those identified in Exhibit B. Project costs eligible for grant funding may include, but are not limited to:

1. Construction of the Board approved detention facility project, including site preparation.
2. Fixed equipment items (e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc.) as necessary for the operation of the detention facility.

3. Fixed furnishings items (e.g., built in and/or permanently-affixed counters, tables, cabinets, seats, etc.) as necessary for the operation of the detention facility.
4. Installation of existing fixed equipment and furnishings as necessary for the operation of the detention facility.

B. Project costs or items which are ineligible for grant funding and cash (hard) match credit include but are not limited to:

1. Site acquisition costs, including costs of purchase, lease, rent, or mortgage.
2. Off-site costs, including access roads and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the security fence, detention facility building, and parking lot.
3. Needs assessment costs.
4. Detention facility personnel, operational, and supplies costs.
5. Construction management functions (ineligible for grant funds; eligible for cash (hard) match only if performed by consultants or contractors outside the regular County work force).
6. Architectural programming and design (ineligible for grant funds; eligible for cash (hard) match only if performed by consultants or contractors outside the regular County work force.)
7. Landscaping.
8. Soil and water contamination assessment/mitigation.
9. Excavation of burial sites.
10. Moveable equipment and moveable furnishings.
11. Preparation of Environmental Impact Reports.
12. Bonus payments for early completion of work.
13. Interest charges for late payments.
14. Interest on bonds or any other form of indebtedness required to finance project costs.
15. Costs outside the scope of the Board-approved project.
16. Fines and penalties due to violation of or failure to comply with Federal, state or local laws, ordinances, or regulations.
17. Personal injury compensation or damages arising out of or connected with the project, whether determined by adjudication, arbitration, negotiation, or otherwise.
18. All costs incurred in violation of the terms, provisions, conditions, or commitments of this contract.
19. Travel and per diem costs.
20. All costs attributable to county building permit fees, sewer/utility use or unit fees, and/or building inspection fees.
21. All costs arising out of or connected with contractor claims against the Grantee, or those persons for whom the Grantee may be vicariously liable, including, but not limited to, any and all costs related to defense or settlement of such claims.
22. Maintenance costs.
23. Supplanting of existing construction, programs, projects, or personnel.

24. All costs arising out of or attributable to Grantee's malfeasance, misfeasance, mismanagement, or negligence.
- C. Grantee agrees to appropriate and spend cash as hard matching funds of at least the amount of the grant divided by nine. To qualify as match, Grantee expenditures must be for budget items identified in Exhibit B and be for the project funded by the Board.

ARTICLE 3. GRANTEE'S GENERAL RESPONSIBILITY

Grantee is solely responsible for design, construction, operation, and maintenance of the project as identified in Exhibit B. Review and approval of plans, project specifications, or other documents by the Board, is solely for the purpose of proper administration of grant funds by the Board and shall not be deemed to relieve or restrict the Grantee's responsibility.

ARTICLE 4. GRANTEE ASSURANCES AND COMMITMENTS

A. Compliance with Laws and Regulations.

Grantee shall at all times comply with all applicable Federal and state laws, rules and regulations, and all applicable local ordinances, specifically including, but not limited to, environmental, procurement and safety laws, rules, regulations, and ordinances.

B. Fulfillment of Assurances and Declarations.

Grantee shall fulfill all assurances, declarations, representations, and statements made by the Grantee in the grant application, documents, amendments, and communications filed in support of its request for grant funds.

C. Use of Grant Funds.

Grantee shall expend all grant funds solely for eligible project costs. Grantee shall, upon demand, remit to the Board any grant funds not expended for eligible project costs or an amount equal to any grant funds expended by the Grantee in violation of the terms, provisions, conditions, or commitments of this contract. Any grant funds so remitted to the Board may be subject to interest equal to the rate earned by the State Pooled Money Investment Account.

D. Permits and Licenses.

Grantee agrees to procure all permits and licenses necessary to complete the project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the project work.

E. Compliance with Deliverables, Drawings, and Specifications.

Grantee agrees that deliverables, drawings, and specifications, upon which prime and sub-contracts are awarded, shall be the same as those submitted to and approved by the Board.

F. Prime and Sub-contracting Requirements.

In accordance with the provisions of this agreement, the Grantee may contract with public or private contractors of services for activities necessary for the completion of the project. Grantee agrees that in the event of an inconsistency between the grant contract, its Exhibits and Grantee's Agreement for Construction with a contractor, the grant contract and its Exhibits will prevail. Grantee shall ensure that the contractor complies with all requirements of the grant contract, and all instructions of the County Construction Administrator regarding compliance with the grant contract.

Grantee assures that for any contract awarded by the Grantee, such insurance (e.g., fire and extended coverage, workers' compensation, public liability and property damage, and "all-risk" coverage) as is customary and appropriate will be obtained.

The Grantee shall require the contractor to post payment and performance bonds, each of which shall be in an amount not less than 100 percent of the contract price, if the contract amount is equal to or in excess of the amount for which payment and performance bonds are required by law and ordinance.

Certain changes to the project and/or in the Grantee's Agreement for Construction with a contractor are subject to approval by the Board. Minor modifications to the project do not require Board approval, but must be documented and reported on routine progress reports to the Board. The following changes require prior written approval of the Board:

1. Changes which affect the design or scope of the project.
2. Changes which impact compliance with Titles 15, 19, and 24, California Code of Regulations, or which affect security, fire, and life safety of the facility.
3. Changes which extend the project completion date, materially change the Agreement for Construction with the contractor or change the total amount of the contract.
4. Change in approved budget categories or Divisions, or movement of dollars between budget categories or Divisions (except for movement of dollars from Contingency to other approved budget categories) as indicated in Exhibit B.

Grantee agrees that its County Construction Administrator will give prompt notification in writing to the Board of the above events and report any modifications to the Agreement for Construction with its contractor.

Grantee agrees that its contractor will list construction costs according to the Divisions of the Schedule of Values as specified in Exhibit B. Since certain portions of the project may not be eligible for grant funding in all requests for reimbursement, the Grantee's contractor shall separately list work not eligible for grant funding and the County Construction Administrator shall identify such work for the contractor.

Grantee agrees that it is the County Construction Administrator's responsibility to provide a liaison between the County, the Board, and its contractor. Grantee agrees that its contractor is not responsible nor required to engage in direct discussion with the Board or any representative thereof, except that the contractor shall in good faith exert its best effort to assist the Grantee in fully complying with all requirements of the grant contract.

Grantee agrees to place appropriate language in all contracts for work on the project requiring the contractor and any subcontractor to:

1. Books and Records.

Maintain adequate fiscal and project books, records, documents, and other evidence pertinent to the contractor's work on the project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from support documentation to the accounting records to the financial reports and billings. These records shall be maintained for a minimum of three years after the date of completion of the project or the final audit, whichever is later, and shall be subject to examination and/or audit by the Board or designees, state government auditors or designees, or by Federal government auditors or designees.

2. Access to Books and Records.

Make such books, records, documents, and other evidence available to the Board or its designees, the Bureau of State Audits or designees, and Federal government auditors or designees, during the course of the project and for a minimum of three years after completion of the project or final audit, whichever is later, and provide suitable facilities for access, monitoring, inspection, and copying thereof.

3. Non-Discrimination.

Not discriminate against employees or against any applicant for employment because of ethnic group identification, religion, age, sex, color, national origin, or physical or mental disability (see Exhibit C).

4. Access.

Permit the Board, or its authorized agents, to have access to the project staff and facilities whenever project activities are in progress and provide

that the contractor(s) will provide proper facilities for access, monitoring, and inspection.

5. Contractor Advisement.

Be advised that the primary source of funding for the Agreement for Construction is the state grant, and that the County may not have funds to finance the Agreement for Construction independently of the state grant. The contractor shall in all ways cooperate with the County and the Board in maintaining a good working relationship. The contractor shall cooperate as instructed by the County Construction Administrator in resolving any disputes arising under the grant.

G. Award of Contracts to Other Parties.

Promptly, upon awarding of a contract to a public or private contractor, the Grantee shall advise the Board of the award and shall supply such information and documentation relevant to this project as may be required by the Board.

ARTICLE 5. PROJECT ACCESS

The Grantee shall insure that the Board, or any authorized representative, will have suitable access to the project activities and site(s) at all reasonable times during project implementation.

ARTICLE 6. FLOOD INSURANCE

Grantee shall acquire and maintain any flood insurance made available to it under the Flood Disaster Protection Act of 1973 as described in Exhibit D. The insurance shall be in an amount at least equal to the total eligible project costs, excluding cost of land and uninsurable improvements, or to the maximum limit of coverage made available under the Flood Disaster Protection Act of 1973, whichever is less, for the entire useful life of the project. This condition shall not be applicable if, on the date of execution of the grant contract by both parties, flood insurance was not available pursuant to the Flood Disaster Protection Act of 1973 for property in the project location. This condition shall not be applicable if the project location is outside the boundaries of a special flood hazard area delineated on a Flood Hazard Boundary Map or Flood Insurance Rate Map which has been issued by the Department of Housing and Urban Development, Federal Insurance Administration. This condition shall not be applicable if the total value of improvements insurable under the Flood Disaster Protection Act of 1973 is less than \$10,000.

ARTICLE 7. RECORDS

The Grantee shall establish an official file for the project. The file shall contain adequate documentation of all actions in accordance with generally accepted government accounting principles that have been taken with respect to the project.

The Grantee shall establish separate accounting records for receipt, deposit, and disbursement of all project funds as specified in Article 13.

The Grantee shall maintain books, records, documents, and other evidence sufficient to reflect properly the amount, receipt, and disposition of all project funds, including Board-grant funds and any matching funds by the Grantee and the total cost of the project. The maintenance requirement extend to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all awards, applications, and required financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full-time, or part-time. Time and effort reports are also required for consultants and contractors. Generally accepted government accounting principles and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation to the accounting records to the financial reports and billings.

Grantee agrees to protect records adequately from fire or other damage. When records are stored away from the Grantee's principal office, a written index of the location of records stored must be on hand and ready access must be assured. All Grantee records relevant to the project must be preserved a minimum of three years after project completion or final audit, whichever is later, and shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the Board or designees, by state government auditors or designees, or by Federal government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the regular three-year period, whichever is later.

ARTICLE 8. ACCOUNTING AND AUDIT REQUIREMENTS

All funds received by the Grantee shall be deposited into separate fund accounts which identify the funds and clearly show the manner of their disposition. Grantee agrees that audit and accounting procedures shall be in accordance with generally accepted government accounting principles and practices (see *Accounting Standards and Procedures for Counties*, California State Controller, Division of Local Government Fiscal Affairs) and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation to the accounting records to the financial reports and billings. The Grantee further agrees to the following audit requirements:

A. Federal Single Audit Act

If the Grantee expends \$300,000 or more in a year in Federal funds, Grantee agrees to comply with the provisions pursuant to the Federal Office of Management and Budget Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Circular No. A-133 requires non-

Federal entities which meet the expenditure criteria to have either a single or program specific audit conducted for that expenditure year. Although non-Federal entities that expend less than \$300,000 a year in Federal awards are exempt from the Federal audit requirements for that year, records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office.

B. Pre-payment Audit

Prior to the deposit of grant funds into the separate account, the Board may require the Grantee to have a system audit performed by an auditor satisfactory to the Board to insure that the Grantee's accounting system meets generally accepted government accounting principles;

C. Interim Audit

The Board reserves the right to call for a program audit or a system audit at anytime between the execution of this grant contract and the completion or termination of the project. At any time, the Board may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this grant contract, or take other remedies legally available; and,

D. Final Audit

Within 90 calendar days of the contract expiration date, the Grantee must obtain and submit a final program audit to the Board (see *Contract Administration and Audit Guide: Construction Grants Program*, Board of Corrections). The audit shall be prepared in accordance with generally accepted auditing standards and government auditing standards for financial and compliance audits. The audit may be performed by the Grantee subject to the terms hereinafter described, or the Grantee may hire, at county cost, an independent auditor to complete the final audit. Since the audit function must maintain organization independence, the county financial officer for this project shall not perform audits of the grant contract-related activities. Additionally, internal county auditors who report to the financial officer, or to whom the financial officer reports, shall not perform the audit. The person conducting the audit shall be a certified public accountant, unless the audit is completed by a county auditor. Failure to comply with these qualifications standards could result in the rejection of the audit report.

At any time, the Board may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this grant contract, or take other remedies legally available.

ARTICLE 9. REPORTS

The Grantee agrees to submit invoices and progress/final reports in a format and on a timetable specified by the Board during the period of the grant contract. Reports are

due to the Board even if grant funds are not expended or requested in the reporting period. Not submitting invoices and progress/final reports in a timely manner may result in grant disbursements being withheld. In addition, Grantee shall immediately advise the Board of any significant problems or changes arising during the course of the project.

Without limitation of the foregoing, the following reports are required:

A. Quarterly Fiscal Invoice and Progress/Final Report

The Grantee agrees to submit quarterly fiscal invoices and progress/final reports to the Board on the appropriate form provided to the Grantee during the term of this grant contract. The reports shall include, but not be limited to, project construction activities, change orders issued, problems identified, assistance needed, grant and match expenditures made, grant funds received, and grant funds requested.

The quarterly fiscal and progress/final report must be submitted within 45 calendar days after the end of the fiscal quarter. The due dates for the invoices and progress reports are no later than:

1 st Quarterly Period:	July-September	Due: November 15
2 nd Quarterly Period:	October-December	Due: February 15
3 rd Quarterly Period:	January-March	Due: May 15
4 th Quarterly Period:	April-June	Due: August 15

A. Final Fiscal Invoice and Project Summary

The Grantee agrees to submit to the Board a Final Fiscal Invoice and Project Summary on the appropriate form provided to the Grantee within 45 calendar days of the scheduled construction completion date identified in the grant contract. The report shall include, but not be limited to, total grant and match expenditures made by budget Division, total grant funds received, remaining grant funds requested, number of rated beds added and modified, and a detailed description of the finished project including pre-construction and post-construction photographs or other visual material suitable for public distribution.

ARTICLE 10. DISCRIMINATION BY GRANTEE

Grantee shall not discriminate against any employee who is employed in the project work or against any applicant for such employment because of ethnic group identification, religion, age, sex, color, national origin, or physical or mental disability (see Exhibit C).

ARTICLE 11. CHANGES

Grantee agrees that no substantial change or modification to the project will be permitted without prior written approval of the Board. Minor modifications to the project do not require Board approval, but must be documented and reported on routine progress reports to the Board. The following types of changes require written approval of the Board:

- A. Changes which affect the design or scope of the project.
- B. Changes which impact compliance with Titles 15, 19, and 24, California Code of Regulations, or which affect security, fire, and life safety of the facility.
- C. Changes which extend the project completion date, materially change the Agreement for Construction with the contractor, or change the total amount of the contract.
- D. Change in approved budget categories or Divisions, or movement of dollars between budget categories or Divisions (except of movement of dollars from Contingency to other approved budget categories) as indicated in Exhibit B.

Grantee agrees that its County Construction Administrator will give prompt notification in writing to the Board of the above events and report any modifications to the Agreement for Construction with its contractor.

In no event shall any budget changes be authorized which would cause the total amount of the grant award to be exceeded.

ARTICLE 12. WITHHOLDING OF GRANT DISBURSEMENTS

- A. The Board may withhold all or any portion of the grant funds provided for by this contract in the event that:

- 1. Contract Violations

- The Grantee has materially and substantially breached the terms and conditions of this contract.

- 2. Insufficient County Funds

- The Grantee is unable to demonstrate, to the satisfaction of the Board's Executive Officer, continuous availability of sufficient funds to complete the project.

- 3. Insufficient Match Disbursement

- The Grantee has not expended its cash hard match requirement on a schedule that is at least pro-rata with the percentage expenditure of grant funds and/or according to the schedule as identified in Exhibit B.

- B. At such time as the balance of state funds allocated to the County reaches 20 percent, the Board may withhold that amount as security, to be released to the Grantee upon complying with all grant provisions, including: 1) staffing and operating the facility within 90 days of project completion consistent with Title 15,

California Code of Regulations; 2) receipt and approval of the final audit and final project summary report; and 3) final construction inspection and approval by appropriate officials.

- C. In the event that grant funds are withheld from the Grantee, the Board's Executive Officer or designee shall notify the Grantee of the reasons for withholding and advise the Grantee of the time within which the Grantee may remedy the failure or violation leading to the withholding.

The Board will not reimburse counties for costs identified as ineligible for grant funding. If grant funds have been provided for costs subsequently discovered to be ineligible, the Board may either withhold an equal amount from subsequent payments to the Grantee or require repayment of an equal amount to the state by the Grantee. Any grant funds so remitted to the Board may be subject to interest equal to the rate earned by the State Pooled Money Investment Account.

ARTICLE 13. DISBURSEMENT

The Grantee shall be paid in arrears on invoices of expenditures and request for grant funds submitted to the Board on a quarterly basis on the Quarterly Fiscal Invoice and Progress/Final Report. The Grantee shall supply the Board with the appropriate expenditure documentation and request for grant funds on form(s) provided by the Board and certify to the accuracy of the report(s) in accordance with generally accepted governmental accounting principles and Board regulations, guidelines, policies, and procedures. The Grantee shall further certify that all listed expenditures are actual and that all funds were expended for the purpose of liquidating obligations identified in Exhibit B and legally incurred.

The state will normally issue a warrant for eligible grant contract funds within 20 days of receipt of county invoice and documentation of eligible contract expenditures. All requests for payment shall be accompanied by any documentation as may be required by the Board and with such certification(s) as may be required by the Board.

ARTICLE 14. TERMINATION

- A. This grant contract may be terminated at any time by Board, at its option, where it appears that there will be lack of grant funds available to fulfill this contract, provided that after such termination, the Grantee shall be entitled to an amount which equals the eligible project costs which have been incurred by the Grantee prior to such termination.
- B. This grant contract may be terminated after award of contract(s) but prior to completion of the project, by the Board, upon action or inaction by the Grantee which constitutes a material and substantial breach of this contract. Such action or inaction by the Grantee includes but is not limited to:
 - 1. Substantial alteration of the scope of the grant project without the prior written approval of the Board.

2. Refusal or inability to complete the grant project in a manner consistent with the grant application, timelines, benchmarks, plans, and specifications as approved by the Board, or refusal or inability to comply with the applicable provisions of Titles 15, 19, or 24, California Code of Regulations.
 3. Failure to provide the required local cash (hard) match share of the total project costs pro-rata with the percentage expenditure of grant funds, failure to provide the required in-kind (soft) match share of total project costs; and/or failure to adhere to the cash (hard) match expenditure schedule identified in Exhibit B.
 4. Failure to meet prescribed assurances, commitments, contract, record accounting and auditing, and reporting requirements.
 5. Any other violation(s) of the grant contract which significantly impairs the security of the grant funds, or, the ability of the Grantee to utilize the funds for the intended and authorized purpose as identified in Exhibit B.
- C. In the event of termination provided in Article 14.B., Grantee agrees, upon notification, to refund to the Board an amount up to all grant funds previously disbursed to the Grantee. Any grant funds so remitted to the Board may be subject to interest equal to the rate earned by the State Pooled Money Investment Account.
1. Prior to terminating any grant contract under the provisions of Article 14 B., the Board shall provide the Grantee at least 30 days written notice, stating the reason(s) for termination and effective date thereof. The Grantee may appeal the termination decision in accordance with Article 15.
- D. Nothing in this Article in any way alters or limits the authority of the Board to withhold grant funds in accordance with Article 12.

ARTICLE 15. DISPUTES

Except as otherwise provided in this grant contract, any dispute concerning a question of fact arising under, or relating to, the performance of this grant contract which is not resolved by agreement between Grantee and Board staff shall be decided by the Board. This clause does not preclude consideration of legal questions; nothing in this contract shall be construed as making final the decision of any administrative official, representative, or Board on a question of law.

A Grantee may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures. Such appeal shall be filed within 30 calendar days of the notification of the action with which the Grantee is dissatisfied. The request

shall be in writing stating the basis for the dissatisfaction, and the action being requested of the Board.

A hearing shall be conducted by a hearing panel designated by the Chairperson of the Board at a reasonable time, date, and place, but not later than 21 days after the filing of the request for hearing with the Board, unless delayed for good cause. The Board shall mail or deliver to the appellant or authorized representative a written notice of the time and place of hearing not less than 14 days prior to the hearing. The procedural time requirements may be waived with mutual written consent of the parties involved.

Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision by the Board of Corrections within 90 days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued for what is determined by the hearing panel to be good cause.

An appellant may waive a personal hearing before the hearing panel and under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.

The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded. After the hearing has been completed, the hearing panel shall submit an advisory recommendation on the matter to the Board of Corrections. The decision of the Board of Corrections shall be final.

ARTICLE 16. REMEDIES

Grantee agrees that any remedy provided in this grant contract is in addition to and not in derogation of any other legal or equitable remedy available to the Board as a result of breach of this grant contract by the Grantee, whether such breach occurs before or after completion of the project. In the event of litigation between the parties hereto arising from this contract, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered within the discretion of the Court.

ARTICLE 17. WAIVER

The parties hereto may, from time to time, waive any of their rights under this grant contract unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the party making such waiver.

ARTICLE 18. AMENDMENT

This grant contract may be amended at any time by mutual written agreement of the parties.